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Chief Executive Officer

County of Los Angeles CHIEF EXECUTIVE OFFICE

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May 13, 2009

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To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "WTF", is written over the printed name of William T. Fujioka.

SACRAMENTO UPDATE

This memorandum contains an update on the State Budget deficit; pursuits of County position on three bills relating to Medi-Cal reimbursement, low-income housing tax credit, and permanent partial disability benefits; and the status of a County-sponsored bill and seven County-advocacy bills.

State Budget Update

On May 11, 2009, Governor Schwarzenegger sent a letter to the Legislative Leaders indicating that the projected State Budget deficit through June 30, 2010 has grown to an estimated \$15.4 billion because of the sharp economic decline which has resulted in low-revenue collections and increased social services caseloads. According to the Governor's letter, the projected budget gap would increase to an estimated \$21.3 billion if the budget-related ballot measures in the May 19, 2009 Special Election are not passed by the voters. As reported in our May 11, 2009 Sacramento Update, the FY 2009-10 State Budget relies on the passage of Propositions 1C, 1D, and 1E, which would provide the State \$5.8 billion. A copy of the Governor's letter is attached.

"To Enrich Lives Through Effective And Caring Service"

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While details of how the Administration plans to address the deficit have not been released, the Governor and other Administration officials have indicated that they are considering certain solutions, such as:

- Borrowing \$2 billion from counties, cities, special districts, and redevelopment agencies, pursuant to Proposition 1A of 2004;
- Reducing school funding by \$3.6 billion;
- Eliminating the projected \$2 billion State General Fund reserve; and
- Releasing low-level offenders from State prisons.

As part of the Governor's May Revision release tomorrow, the Administration intends to release two budget proposals to address the \$15.4 billion and \$21.3 billion budget deficits.

Pursuit of County Position on Legislation

AB 521 (De La Torre), as amended on April 20, 2009, would authorize a public utility to lease real property, acquired to obtain a utility right-of-way, to a governmental entity to maintain a public park, with the public utility retaining a right-of-way easement.

According to the Department of Parks and Recreation (DPR), there are existing public utility properties which could be considered for conversion to parks. DPR indicates that in the past it has encountered various barriers to leasing public utility land for park uses. AB 521 would simplify the leasing process and encourage multi-use open space and recreation projects at otherwise vacant or untenanted utility properties.

The need for adequate park and recreation space becomes more important as the County population continues to grow. Suitable parcels of land to accommodate recreational facilities will become increasingly scarce as development occurs over time. The promotion of a wide range of land resources for the location of future parks will help meet the need for recreation space to serve both existing and future residents of the County.

The Department of Parks and Recreation and this office support AB 521 because it would enhance the County's ability to seek opportunities for establishing new park and recreational facilities. Support is consistent with existing Board policy to increase the prevalence and safety of sidewalks, walking trails, bike paths, and parks. Therefore, **the Sacramento advocates will support AB 521.**

AB 521 is sponsored by the Trust for Public Land and supported by Southern California Edison and the City of Bellflower. There is no registered opposition. The bill passed the Assembly Floor on May 4, 2009, by a vote of 67 to 12, and now proceeds to the Senate.

AB 1445 (Chesbro), as amended on April 15, 2009, would authorize Medi-Cal reimbursement for a maximum of two visits for one patient on the same day. It would ensure payment for individuals who visit a Federally Qualified Health Center (FQHC) or a Rural Health Clinic (RHC), and are referred for an appointment with a clinical psychologist, licensed clinical social worker, dentist or dental hygienist. FQHCs and RHCs are providers in medically underserved areas entitled to receive enhanced reimbursements under Federal Medicaid and Medicare statutes.

In a recent Assembly Health Committee report, the author indicated that Federal law permits Medicaid reimbursement for same-day medical and mental health services, and further noted that AB 1445 would allow primary care providers, who are often the first to detect mental illness, to better integrate behavioral health services with medical services.

The Department of Mental Health (DMH) indicates that for individuals with mental illness, treatment in a FQHC is less expensive than treatment in emergency rooms or crisis units. DMH notes that AB 1445 would make it easier to schedule immediate appointments for early intervention and treatment, avert the need for treatment in more costly settings, such as emergency rooms, and make compliance with a referral for services an easier task for persons with disabilities.

The Department of Mental Health and this office support AB 1445. Consistent with Board policy to support legislation to provide increased funding for mental health services including prevention, diversion, and intervention services for mentally ill adults and delinquent and/or emotionally disturbed minors, **the Sacramento advocates will support AB 1445.**

The bill is sponsored by the California Primary Care Association, and is supported by the Alliance for Rural Health, American College of Obstetricians and Gynecologists, California Association of Marriage and Family Therapists, California Hospital Association, California Mental Health Directors Association, California Psychiatric Association, California Psychological Association, California Society for Clinical Social Work, California State Association of Counties, County of San Bernardino, County of Santa Clara, and the Urban Counties Caucus, among others. There is no registered opposition. AB 1445 passed the Assembly Health Committee, by a vote of 17 to 0, on April 21, 2009, and now proceeds to the Assembly Appropriations Committee.

SB 16 (Lowenthal), as amended on February 11, 2009, would: 1) make the State's Low-Income Housing Tax Credit (LIHTC) refundable for low-income housing projects that have received a preliminary allocation of LIHTC on or after July 1, 2008 and before January 1, 2011; and 2) extend the allocation of tax credits to partners regardless of their percentage interest in a project which received a preliminary allocation of LIHTC during calendar year 2008. SB 16 contains an urgency clause, which would make it effective immediately if passed by the Legislature by a two-thirds vote and signed by the Governor.

The State tax credit program is intended to increase the number of affordable rental housing units available to low-income households. Each state is issued an allocation of tax credit authority by the Internal Revenue Service using a formula that includes a credit ceiling. The total ceiling amount available to California for 2009 is approximately \$85 million and would be increased by any unused or returned credits from previous years. In California, the State program supplements the Federal tax credit program, which also encourages private investment in the development of affordable housing for households meeting certain income requirements.

SB 16 would make the State's tax credit refundable and requires payments to investors who receive a preliminary LIHTC allocation on or after July 1, 2008 and before January 1, 2011. The refund is the amount of the credit after offsetting any tax liability, penalties, interest, and fees. LIHTCs are not refundable for projects completed between July 1, 2008 and December 31, 2008. A refundable credit would allow cash payment from the State, if the investor does not have a tax liability at the time of filing a tax return. The bill amends both the personal income tax and corporation tax laws which authorize LIHTCs.

In addition, SB 16 provides that partnership agreements may allocate LIHTCs to partners regardless of their percentage of interest in the development. After using the credits, the investors could leave the development partnership and deduct any investment losses from other income. These provisions would not be available to low-income housing projects completed prior to the effective date of this bill.

According to the Senate Appropriations Committee analysis, SB 16 would result in an acceleration of tax credit claims on personal and corporate income tax returns beginning in 2012, resulting in revenue losses to the State General Fund of approximately \$0.2 million in FY 2011-12, \$1.6 million in FY 2012-13, \$6.2 million in FY 2013-14, \$10.5 million in FY 2014-15, \$8.5 million in FY 2015-16, and \$1.7 million in FY 2016-17. Starting in FY 2017-18, there would be projected revenue gains to offset prior years' losses and over eight tax years the State General Fund revenue impact would be neutral. The Franchise Tax Board identifies a combined one-time cost of

approximately \$521,000 to develop, program, and test the refundable credit processes within the existing tax systems.

According to the Community Development Commission (CDC), SB 16 would expand the usability of the credits and would lessen the tax burden for investors of low-income housing projects. In addition, the bill would increase the interest in State credits for investors, and would encourage the utilization of such credits by affordable housing developments financed by the CDC. SB 16 has no direct financial impact on the CDC.

The Community Development Commission and this office support SB 16. Support for SB 16 is consistent with existing Board policy to support: 1) proposals that provide incentives to local government and/or developers to increase affordable housing; and 2) proposals to provide additional resources for meeting the capital and operational costs of housing production and related supportive service needs of low-moderate-income families and the needs of special populations including elderly disabled and mentally ill persons. Therefore, **the Sacramento advocates will support SB 16.**

SB 16 is sponsored by the author and supported by Housing California, Mid-Peninsula Housing Corporation, Pacific Companies, Self-Help Enterprises, California Coalition for Rural Housing, Mercy Housing California, Napa Valley Community Housing, Non-Profit Housing Association of Northern California, California Alliance for Retired Americans, Central Coast Residential Builders, Cabrillo Economic Development Corporation, San Luis Obispo County Housing Trust Fund, Housing California, California Rural Legal Assistance Foundation, Western Center on Law and Poverty, Burbank Housing Development Corporation, and Charis Youth Center. The bill is opposed by the California Taxpayers' Association and California Housing Consortium. SB 16 was placed on the Senate Appropriations Committee suspense file on April 27, 2009.

SB 773 (Florez and Steinberg), as amended on April 28, 2009, would increase the permanent partial disability benefits for workers injured on or after January 1, 2010, by revising the formula for computing payments for those permanently injured.

According to Chief Executive Office Risk Management, for workplace injuries occurring on or after January 1, 2010, those persons that receive a disability rating of less than 70 percent would be eligible for weekly payments of \$320, an increase of \$90 from the current \$230 per week. For persons that receive a disability rating of at least 70 percent resulting from a workplace injury, the weekly rate would be increased \$140 from \$270 to \$410. Risk Management estimates that the impact of this increase would result eventually in additional costs to the County of \$35 million a year. Since this bill only applies to injuries that occur after January 1, 2010, it is estimated that the

County cost increase would take three years to six years until it reaches \$35 million annually.

Consistent with existing Board policy to oppose legislation that increases workers' compensation benefits unless it maintains a fair and equitable balance for employers and employees within the workers' compensation reforms enacted in the FY 2003-04 Legislative Session, **the Sacramento advocates will oppose SB 733.**

SB 733 is sponsored by the authors and is supported by the American Federation of State, County, and Municipal Employees; California Applicants Attorneys Association; California Labor Federation; and the California Nurses Association. It is opposed by a coalition of public sector employers including the California State Association of Counties; League of California Cities; Regional Council of Rural Counties; and the California Association of Joint Powers Authorities. SB 733 is scheduled for a hearing in the Senate Labor and Industrial Relations Committee on May 13, 2009.

Status of County-Sponsored Legislation

County-sponsored AB 87 (Davis), which would establish a fee on single-use carryout bags, has been placed on the Assembly Appropriations Committee suspense file, because of potential costs to the State General Fund.

Status of County-Advocacy Legislation

County-supported AB 215 (Feuer), which would require a long-term health care facility to post the overall facility rating information determined by the Federal Centers for Medicare and Medicaid Services, including the number of stars assigned to a facility, passed the Assembly Appropriations Committee on May 6, 2009, by a vote of 13 to 0, and now proceeds to the Assembly Floor.

County-opposed AB 664 (Skinner), as introduced on February 25, 2009, which would expand the presumption of job-related injury to cover all hospital employees for blood-borne infectious diseases, Methicillin-Resistant Staphylococcus Aureus (MRSA), and all neck and back injuries, was amended on April 30, 2009. As amended, the presumption would exist if MRSA develops or manifests itself up to 90 days after terminating employment, instead of up to 60 months. The presumptive period for blood-borne infections and neck and back injuries remains up to 60 months.

Because the Chief Executive Office Risk Management indicates that notwithstanding this amendment, the expansion of the presumption of work-related disability would continue to increase the number and cost of workers' compensation payments to

County employees, **the Sacramento advocates will continue to oppose AB 664.** AB 664 passed the Assembly Insurance Committee, by a vote of 7 to 3, on April 22, 2009, and now proceeds to the Assembly Appropriations Committee.

County-opposed AB 1048 (Torrico), which would extend the timeframe to safely surrender a newborn from 72 hours to up to 30 days, was placed on the Assembly Appropriations Committee suspense file on May 6, 2009, because of potential increased costs to the State General Fund.

County-opposed AB 1409 (J. Pérez), as amended on May 11, 2009, would require a county to solicit bids for a county highway project instead of authorizing work to be done by purchasing the material and having the work completed by force account (county employees) or by day labor. AB 1409 passed the Assembly Local Government Committee on May 7, 2009 by a vote of 6 to 1, and passed the Assembly Transportation Committee, as amended, on May 11, 2009 by a vote of 14 to 0. The bill now proceeds to the Assembly Floor.

The amendments taken in the Assembly Transportation Committee are not in print yet, but the Sacramento advocates indicate that they will address day labor only and delete references to force account, and the limits to the use of day labor will exclude emergencies, maintenance and work under \$25,000. Once the amendments are in print, the Department of Public Works and this office will review them to determine the impact on the department.

County-supported SB 152 (Cox), which would require the State Department of Mental Health to send a reimbursement claim to the State Controller's Office within 90 days after receiving a claim from any fee-for-service county contractor for mental health services provided to Medi-Cal beneficiaries, passed the Senate on May 6, 2009, by a vote of 34 to 0, and now proceeds to the Assembly.

County-opposed unless amended SB 696 (Wright), which would: 1) overturn the court decision in Natural Resources Defense Council v. South Coast Air Quality Management District (SCAQMD); 2) exempt three SCAQMD rules (1304, 1309.1 and 1315) from California Environmental Quality Act (CEQA) if specified conditions are met; and 3) require the State Energy Resources Conservation and Development Commission to perform a needs assessment for a thermal power plant proposed to be located in the SCAQMD, was amended on May 5, 2009, and a hearing in the Senate Energy, Utilities and Communications Committee set for May 12, 2009 was cancelled. The bill still contains an urgency clause.

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The May 5, 2009 amendments: 1) extend the CEQA exemption to amendments that may be required in the future to SCAQMD Rules 1304, 1309.1 and 1315 to meet the U.S. Environmental Protection Agency's (EPA) requirements in the event EPA disapproves or conditionally approves the effective rules; and 2) clarify that the CEQA exemption does not apply to the issuance of any permit or license to a permit applicant.

The Departments of Public Works (DPW) and Regional Planning and County Counsel indicate that the amendments do not address the County's concerns. In addition, DPW states that due to the current permit moratorium, the department anticipates having to expend approximately \$4 million in Emission Reduction Credits to construct the County's new data center, \$2 million for two major hospital projects, and \$7.5 million to obtain retroactive permits for the recently completed LAC+USC Hospital project.

Therefore, the Sacramento advocates will continue to oppose SB 696 unless amended to remove the broad and categorical CEQA exemption for the SCAQMD and to reinstate the previously operative narrow and tailored exemptions to immediately allow essential public projects, hospitals, and historically exempted projects such as small business to obtain SCAQMD permits and emission credits.

Support and opposition to SCAQMD-sponsored SB 696 is unknown. It is unclear when the bill will be set for hearing again.

County-supported SB 698 (Negrete-McLeod), which would change the allocation formula for juvenile court schools from average daily attendance to an enrollment-based model, was placed on the Senate Appropriations Committee suspense file on May 11, 2009.

We will continue to keep you advised.

WTF:GK
MAL:MR:IGEA:sb

Attachment

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association

GAAS:234:09

For Immediate Release:
Monday, May 11, 2009

Contact: Aaron McLearn
Brittany Chord
916-445-4571

Governor Schwarzenegger Sends Letter to Legislative Leaders Outlining Budget Revenues

Governor Arnold Schwarzenegger today sent the following letter to legislative leaders outlining California's budget revenues.

Text of the letter:

May 11, 2009

The Honorable Darrell Steinberg
President pro Tempore
California State Senate
State Capitol
Room 205
Sacramento, California 95814

The Honorable Karen Bass
Speaker
California State Assembly
State Capitol
Room 219
Sacramento, California 95814

The Honorable Dennis Hollingsworth
Republican Leader
California State Senate
State Capitol
Room 305
Sacramento, California 95814

The Honorable Michael Villines
Republican Leader
California State Assembly
State Capitol
Room 3104
Sacramento, California 95814

Dear Senator Steinberg, Speaker Bass, Senator Hollingsworth and Mr. Villines,

In order to avert both a budget shortfall and a cash crisis, it is imperative that we begin work immediately to address these challenges. For that reason, I have decided to release the May Revision May 14, consistent with the traditional May Revision timeline.

The global economic crisis has hit almost every state, and many face historic budget deficits. Our state and our country are facing the deepest recession since the Great Depression. The impact of the economic crisis on California's budget is made even worse by a broken budget system that has plagued our state for the last generation.

Californians are sick and tired of hearing about deficits and our broken budget system. They believe Sacramento has failed them, and they are right to think so. Time after time, I have pushed for real, meaningful reforms to a system that does not serve its state well even in flush times and certainly does not serve it well in lean times.

We now face the leanest of times. California, for the first time since 1938, faces a decline in personal income. The budget, as adopted by the Legislature in late February, closed an unprecedented budget shortfall of \$41.6 billion and provided for a reserve of \$2.1 billion as of June 30, 2010. That budget arose from revenue estimates based on data through November 2008.

The Honorable Darrell Steinberg
The Honorable Karen Bass
The Honorable Dennis Hollingsworth
The Honorable Michael Villines
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Since that time, the severe economic downturn that California, like the rest of the nation, has been facing has worsened substantially. These changes in the state's economic and revenue pictures have caused a significant new budget problem to emerge.

These developments have combined to create a projected budget gap of \$15.4 billion that must be addressed. In addition, the budget-related measures on the May 19 special election have a combined General Fund value of \$5.8 billion. If the initiatives fail, the size of the problem would grow to \$21.3 billion.

Absent swift action, the state will be facing a very serious cash crisis. California may need up to \$23 billion in cash solutions to ensure that all of the state's bills can be paid in a timely manner.

Sincerely,

Arnold Schwarzenegger

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